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TAGS: [KTIP](#) [PREL](#) [KCRM](#) [KWMN](#) [PHUM](#) [SMIG](#) [CG](#)
SUBJECT: DRC: TIP TIER 2 WATCH LIST ACTION PLAN (2009-2010)

REF: A. A. 2008 STATE 132759
[¶](#)B. B. 2007 STATE 150188
[¶](#)C. C. 2009 STATE 005577
[¶](#)D. D. 2009 STATE 62182

[¶](#)11. (U) This is an action request (see paras 2-4).

[¶](#)12. (SBU) Begin action request: Drawing from points in para 8, Post is requested to approach appropriate host government officials to highlight the United States' strong commitment to continue to work with the Government of the Democratic Republic of the Congo to help strengthen its efforts to combat and prevent trafficking in persons (TIP) and to assist victims. Post is requested to convey the recommendations in para 9 as a non-paper and draw from the talking points in para 8 to explain to the host government the need for prompt action on the recommendations for a positive review in the interim assessment that the Department will release to Congress by February 2010 and for movement out of the Tier 2 Watch List in next year's Report.

[¶](#)13. (SBU) Action request continued: Post is further requested to emphasize to the Government of the Democratic Republic of the Congo that these recommendations are often referred to as "high-priority" items for Tier 2 Watch List removal. However, sustained and significant anti-trafficking efforts by the government throughout the year will remain the basis for determining next year's tier placement. The interim assessment for Special Watch List countries (to include Tier 2 Watch List countries) will provide a progress report regarding the government's actions to address the short list recommendations designed to address the concerns that resulted in the country's placement on the Tier 2 Watch List in the 2009 TIP Report (high-priority items), but there will be no changes in tier ratings at that time. We will reconsider the government's tier placement when we conduct our annual full assessment for the March 2009-2010 reporting period next spring.

[¶](#)14. (SBU) Action request continued: The Department recognizes that Post may choose to use this opportunity to provide additional recommendations, beyond the recommendations for moving out of the Tier 2 Watch List. In such a case, we request that Post make clear to the government which are the "high-priority" items to move off of the Tier 2 Watch List. (For posts, background information: G/TIP will be asking for posts to report on the country's progress in meeting these recommendations by no later than November 15, 2009, in order to compile narratives for the interim assessment.)

[¶](#)15. (SBU) In preparation for the interim assessment and 2010 TIP Report, the Department is asking posts to work with host governments throughout the year to collect as many statistics as possible on law enforcement actions and judicial proceedings related to TIP crimes, specifically the Department requests data on investigations, prosecutions, convictions, and sentences (e.g., fines, probation, length of prison sentences imposed, asset seizure information when available). Whether a government collects and provides this

data consistent with the government's capacity to obtain such data is considered in determining whether the government qualifies for Tier 1. Law enforcement statistics, when available, are a good way of highlighting how well a government enforced its law and demonstrates strengths and weaknesses in various approaches. Please note that host governments and embassies must interpret data terms provided by host governments such as indictments, charges, cases disposed, cases submitted for prosecution, etc., to ensure that they fit into one of the following categories: investigations, prosecutions, convictions or sentences.

The Department cannot accept "trafficking-related" law enforcement statistics (e.g., statistics on prostitution or smuggling offenses) because their direct correlation to trafficking crimes is not clear. The Department will accept only law enforcement data that fall into the following categories: (1) investigations, prosecutions, convictions, and sentences for offenses that are explicitly defined as trafficking; and (2) investigations, prosecutions, convictions, and sentences for offenses that are not defined explicitly as trafficking but in which the competent law enforcement or judicial authority has specific evidence indicating that the defendant was involved in trafficking.

¶6. (SBU) The Department is also asking Posts to engage with host governments on efforts to address amendments made by the 2008 Trafficking Victims Protection Reauthorization Act (TVPRA). As indicated in reftel C, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier ¶3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

¶7. (SBU) Please keep in mind the TIP Report measures host government efforts. In order for anti-trafficking activities financed or conducted principally by parties outside the government to be considered for tier placement purposes, Post needs to demonstrate a concrete role or tangible value-added by a host government in such activities carried out by NGOs, international organizations, or posts.

¶8. (U) Background Points:

Begin talking points:

-- The Obama Administration views the fight against human trafficking, both at home and abroad, as a critical piece of our foreign policy agenda. We are committed to making progress on this issue in the months ahead by working closely with partners in every country.

-- The U.S. Government's Trafficking Victims Protection Act requires the State Department to submit an annual report to Congress on the status of foreign governments, efforts to combat trafficking in persons. Pursuant to the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), the Department created a special category for Tier 2 countries that do not show increasing efforts from the previous year, have a very significant number of victims, or whose Tier 2 rating is based on commitments to take additional steps over the next year.

-- Also as mandated by the TVPRA, by February 2010 the Department will submit to Congress an interim assessment. At the end of 2009 in preparation for that submission, the Department will conduct an assessment of Tier 2 Watch List countries' progress in responding to the specific issues of concern that resulted in the Tier 2 Watch List rating.

-- We offer the following recommended actions to tackle specific shortcomings highlighted in the 2009 TIP Report. We believe these to be within the reasonable ability of your government to fulfill in the near-term and encourage you to take prompt action for a positive narrative in the interim assessment. New tier evaluations will not occur at the interim assessment. We will reconsider a government's tier placement when we conduct our annual full assessment for the 2009-2010 reporting period next spring. Prompt, appropriate, and significant actions will lead to a more favorable tier placement; conversely, failure to address the issues mentioned above may lead to a Tier 3 placement.

-- We would welcome the Government of the Democratic Republic of the Congo's comments on these recommendations and any other ideas you might have to advance our common struggle against trafficking in persons.

End talking points.

¶9. (SBU) Begin Action Plan:

The Government of the Democratic Republic of the Congo has acceded to the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This Protocol contains a number of provisions, including those relating to protection of trafficking victims, criminalization of trafficking offenses, and prevention of trafficking. The government must work toward full implementation of the Protocol, including adopting legislative measures to criminalize trafficking in persons as defined in the Protocol.

Recommended steps for the Democratic Republic of the Congo to combat human trafficking more effectively:

Investigation and Prosecution

-- Increase efforts to arrest and prosecute trafficking offenders, especially those individuals exploiting children in prostitution, forced mining, or child soldiering. Utilize the recently enacted Child Protection Code (Law 09/001) to prosecute cases involving child trafficking, including trafficking for the purposes of commercial sexual exploitation, soldiering, and domestic servitude.

-- Apply the 2006 statute against sexual violence (Law 6/018) to the investigation and prosecution of sexual trafficking cases, especially against those who facilitate child prostitution, i.e. those individuals who house and maintain control over children in prostitution. This includes the government officials who facilitate prostitution from major hotels in Kinshasa.

-- Punish and document any action taken against military or other law enforcement personnel found unlawfully using local populations, especially children, to perform forced labor, such as carrying food and supplies, or even forced agricultural work or mining.

-- Thoroughly investigate and start prosecuting any public officials suspected of perpetrating trafficking abuses or colluding with human traffickers.

-- Actively seek partnerships with international donors to develop training programs on investigation and prosecution of human trafficking offenses for civilian and military investigators and magistrates.

Services for Children

-- Expand the creation and operation of care centers for vulnerable children, i.e. for orphans, child soldiers, street children, or child laborers.

-- Demobilize all remaining children from the FARDC, including all previously existing integrated brigades, newly integrated brigades, and non-integrated brigades. Incorporate child soldier demobilization as an essential objective of all programs adopted by the Ministry of Defense's disarmament, demobilization, and reintegration (DDR) unit.

-- Follow-up with children who have been demobilized to determine whether they have successfully reintegrated into civilian life (e.g., the child's basic needs are being met; s/he has returned to school, or received vocational training and obtained employment; s/he has not been re-recruited; and s/he is not engaging in criminal or other destructive behavior).

-- Investigate the situation of children in prostitution in the country. In partnership with local or international NGOs or religious entities, implement measures to extend short-term protective services to these children.

Legislative Proposals

-- Step up efforts to implement the new Child Protection Code.

-- Develop a legislative proposal to comprehensively address all forms of human trafficking. The law should define trafficking, specify who can be considered a trafficker, and outline a punishment scheme for various trafficking acts.

-- Develop a national action plan to combat human trafficking.

Education and Public Awareness

-- Take steps to raise awareness about human trafficking among the general population. Some suggestions are: 1) incorporate trafficking awareness campaigns into the national educational system and informal educational opportunities for children; 2) using media outlets, such as radio and television, to air brief informational spots or public service announcements; 3) display posters in public places depicting the dangers of human trafficking, how to report a case, or where to go to seek assistance; and 4) recruit influential citizens, such as sports figures and musicians, to record public service announcements.

-- Forcefully and publicly condemn the use of forced labor and debt bondage in the mining sector. Together with concession holders, develop a plan for educating mine operators and workers about the illegality of utilizing such labor.

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